

Missouri Attorney General's Opinions - 2002

Opinion	Date	Topic	Summary
39-2002	May 22	DRAINAGE DISTRICTS. LEVEE DISTRICTS.	An authorized representative of a corporation that owns property within a levee district may be elected to the board of supervisors as provided in Section 245.060. There is no provision that an authorized representative of a corporation that owns property in a drainage district may be elected to the board of supervisors of a drainage district under Section 242.150.
47-2002	May 15	LOTTERY COMMISSION. PARDONS.	A pardon removes an impediment to a lottery license caused solely by the fact of the conviction for which the pardon was granted, but the conduct that led to the conviction for which the pardon was granted may be considered in assessing other factors used in making licensing decisions.
63-2002	Jan 23	CITY COUNCIL. COUNTY AUDITOR. INCOMPATIBILITY OF OFFICES.	A member of a city council may run for county auditor; however, an individual may not serve simultaneously as county auditor of a first class county and as a member of a city council within that county.
65-2002	May 15	CENSUS. PRISONERS.	Inmates of state correctional institutions should be included in the population count of the political subdivision in which the institution exists as determined at the last previous decennial census of the United States.
69-2002	Jan 18	JOINT RESOLUTIONS.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the proposed constitutional amendment passed by the General Assembly (House Joint Resolution No. 11).
75-2002	Feb 6	INITIATIVE PETITION.	Review and approval under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to revise the Missouri statutes submitted by the Missouri Campaign for New Drug Policies.
77-2002	Feb 6	INITIATIVE PETITION.	Review and approval under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri Constitution submitted by Chuck Portwood.
78-2002	May 13	GOVERNOR. INCOME TAX. OFFICE OF ADMINISTRATION.	Section 143.183, RSMo 2000, imposes an affirmative obligation on the Commissioner of Administration to estimate the amount of state income tax revenues collected which are received from nonresident members of professional athletic teams and nonresident entertainers. The allocation of those revenues to the various funds identified in that

			statute are subject to the appropriation process. Section 143.183 imposes no duty on the Governor and does not restrict the Governor's authority to prepare and submit a budget.
82-2002	Mar 1	INITIATIVE PETITION.	Review and approval of legal content and form of a summary statement prepared pursuant to Section 116.334, RSMo 2000, regarding a proposed amendment to the Missouri Constitution.
83-2002	Mar 1	INITIATIVE PETITION.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition for a proposed constitutional amendment from the Missouri Campaign for New Drug Policies relating to drug and tobacco addiction and treatment policies.
85-2002	Mar 1	INITIATIVE PETITION.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition proposal relating to the Homestead Preservation Act.
88-2002	Mar 6	INITIATIVE PETITION.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend Article IV of the Missouri Constitution submitted by Husch & Eppenberger, LLC (version 1).
89-2002	Mar 6	INITIATIVE PETITION.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend Article IV of the Missouri Constitution submitted by Husch & Eppenberger, LLC (version 2).
91-2002	Mar 14	INITIATIVE PETITION.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri statutes relating to tobacco taxes submitted by Husch & Eppenberger, LLC (version 1).
92-2002	Mar 14	INITIATIVE PETITION.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri statutes relating to tobacco taxes submitted by Husch & Eppenberger, LLC (version 2).
93-2002	Mar 14	INITIATIVE PETITION.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri statutes relating to tobacco taxes submitted by Husch & Eppenberger, LLC (version 3).
94-2002	Mar 14	INITIATIVE PETITION.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri statutes relating to tobacco taxes submitted by Husch & Eppenberger, LLC (version 4).
95-2002	Mar 14	INITIATIVE PETITION.	Review and approval pursuant to Section 116.332, RSMo, of the

			sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri statutes relating to tobacco taxes submitted by Husch & Eppenberger, LLC (version 5).
96-2002	Mar 14	INITIATIVE PETITION.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri statutes relating to tobacco taxes submitted by Husch & Eppenberger, LLC (version 6).
97-2002	Mar 14	INITIATIVE PETITION.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri statutes relating to tobacco taxes submitted by Husch & Eppenberger, LLC (version 7).
98-2002	Mar 14	INITIATIVE PETITION.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri statutes relating to tobacco taxes submitted by Husch & Eppenberger, LLC (version 8).
99-2002	Mar 14	INITIATIVE PETITION.	Review and approval of legal content and form of a summary statement prepared pursuant to Section 116.334, RSMo 2000, related to an initiative petition for the Missouri Campaign for New Drug Policies.
100-2002	Mar 15	INITIATIVE PETITION.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend Article IV of the Missouri Constitution submitted by Husch & Eppenberger, LLC (version 3a).
102-2002	Mar 20	INITIATIVE PETITION.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to tobacco taxes (version 1).
103-2002	Mar 20	INITIATIVE PETITION.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to tobacco taxes (version 2).
104-2002	Mar 20	INITIATIVE PETITION.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to tobacco taxes (version 3).
105-2002	Mar 20	INITIATIVE PETITION.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to tobacco taxes (version 4).
106-2002	Mar 20	INITIATIVE PETITION.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to tobacco taxes (version 5).
107-2002			

107-2002	Mar 20	INITIATIVE PETITION.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to tobacco taxes (version 6).
108-2002	Mar 20	INITIATIVE PETITION.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to tobacco taxes (version 7).
109-2002	Mar 20	INITIATIVE PETITION.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to tobacco taxes (version 8).
115-2002	Apr 4	INITIATIVE PETITION.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to Motor-Fuel Transportation Fund taxes (version 1).
116-2002	Apr 4	INITIATIVE PETITION.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to Motor-Fuel Transportation Fund taxes (version 2).
117-2002	Apr 4	INITIATIVE PETITION.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to Motor-Fuel Transportation Fund taxes (version 3a).
119-2002	Mar 28	INITIATIVE PETITION.	Review and approval of legal content and form of a summary statement prepared pursuant to Section 116.334, RSMo 2000, regarding a proposed tobacco tax initiative petition (version 2).
126-2002	Apr 8	INITIATIVE PETITION.	Review and approval of legal content and form of a summary statement prepared pursuant to Section 116.334, RSMo 2000, regarding a proposed initiative petition relating to transportation (version 1).
127-2002	Apr 8	INITIATIVE PETITION.	Review and approval of legal content and form of a summary statement prepared pursuant to Section 116.334, RSMo 2000, regarding a proposed initiative petition relating to transportation (version 2).
128-2002	Apr 8	INITIATIVE PETITION.	Review and approval of legal content and form of a summary statement prepared pursuant to Section 116.334, RSMo 2000, regarding a proposed initiative petition relating to transportation (version 3a).
140-2002	May 28	INITIATIVE AND REFERENDUM. REFERENDUM.	Review and approval of legal content and form of a summary statement prepared pursuant to Section 116.160, RSMo 2000, regarding a referendum to be held on Senate Bill Nos. 915, 710, and

			907.
141-2002	May 28	INITIATIVE AND REFERENDUM. REFERENDUM.	Review and approval of legal content and form of the fiscal note summary prepared pursuant to Section 116.170, RSMo, regarding a referendum to be held on Senate Bill Nos. 915, 710, and 907.
146-2002	June 26	JOINT RESOLUTIONS.	Review and approval of legal content and form of a summary statement prepared pursuant to Section 116.160, RSMo 2000, regarding Senate Joint Resolution 24.
147-2002	June 26	JOINT RESOLUTIONS.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning Senate Joint Resolution No. 24.
164-2002	Dec 5	INITIATIVE PETITION.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to amending Chapter 640, RSMo, by adding one new section to be known as Section 640.887, the Consumer Clean Energy Act.
169-2002	Dec 19	INITIATIVE PETITION.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition proposal to revise Chapter 640 by adding one new section, Section 640.887.
170-2002	Dec 20	INITIATIVE PETITION.	Review and approval of legal content and form of a summary statement prepared pursuant to Section 116.334, RSMo 2000, regarding an initiative petition proposal to revise Chapter 640 by adding one new section, Section 640.887, Consumer Clean Energy Act.

DRAINAGE DISTRICTS:
LEVEE DISTRICTS:

An authorized representative of a corporation that owns property within a levee district may be elected to the board of supervisors as provided in Section

245.060. There is no provision that an authorized representative of a corporation that owns property in a drainage district may be elected to the board of supervisors of a drainage district under Section 242.150.

OPINION NO. 39-2002

May 22, 2002

Honorable Lanie Black
Representative, District 161
Room 116-1, State Capitol Building
Jefferson City, MO 65101

Dear Representative Black:

You have submitted to this office a request for an opinion “whether corporate/partnership membership qualifies as ownership in accordance with RSMo sections 242.150, 245.335, and 245.060, . . .” From the information that you have submitted, it appears that an individual was removed who had been elected as a supervisor of a drainage district because he did not personally own land within the district but had been a corporate representative of a corporation that did own land within the district. Because the information you have supplied indicates the issue involves whether a corporate representative may serve on a board of supervisors, we have limited our response to that question and not to whether a partnership representative can so serve.

Chapter 242 deals with drainage districts, while Chapter 245 deals with levee districts. The provisions regarding qualifications to be a member of the board of supervisors of a levee district vary slightly from those to be a member of the board of supervisors of a drainage district. The board of supervisors for a drainage district created by a circuit court are elected under the provisions of Section 242.150,¹ which provides in pertinent part:

Within thirty days after any drainage district shall have been organized . . . the circuit clerk . . . shall, . . . call a meeting

¹Unless otherwise specified, all statutory references are to RSMo 2000.

of the owners real estate or other property situate in said district, . . . for the purpose of electing a board of five supervisors, to be composed of owners of real estate in said district, two of whom at least shall be residents of the county or counties in which such district is situate, or some adjoining counties; . . . at such election each and every acre of land in the district shall represent one share, and each owner shall be entitled to one vote in person or by proxy for every acre of land owned by him in such district, and the five persons receiving the highest number of votes shall be declared elected as supervisors; . . .

Drainage districts may also be formed under Chapter 243. The board of supervisors are elected in the same fashion as in Chapter 242. See Section 243.470.4, RSMo. If a drainage district organized by a circuit court is consolidated with one organized by a county commission, a new board of supervisors is elected as provided in Chapter 242. See Section 243.475.2(2).

Levee districts may be created pursuant to Chapter 245. The election of a levee district board of supervisors is governed by Section 245.060, which provides in pertinent part:

Within thirty days after any levee district shall have been organized and incorporated under the provisions of section 245.025 the circuit clerk . . . shall, . . . call a meeting of the owners of real estate or other property situate in said district, including the authorized representative of any corporation which owns real estate or other property situate in said district, . . . for the purpose of electing a board of five supervisors, to be composed of owners of real estate in said district, which may include the authorized representative of any corporation which owns real estate or other property in said district, two of whom at least shall be residents of the county or counties in which said district is situate, or some adjoining counties; . . . at such election each and every acre of land and each and every mile of right-of-way of every corporation owning a franchise in the district shall represent one share, and each owner shall be entitled to one vote in person or by proxy for every acre of land or mile of right-of-way owned by him in such district, and the

five persons receiving the highest number of votes shall be declared elected as supervisors; . . . provided, that if the levee district be located within a third or fourth class city of this state, or within any city in this state under fifty thousand population operating under a special charter then the owner of each lot, tract, parcel or subdivision thereof, as set forth in the final decree of the court creating and incorporating said levee district, shall be entitled to one vote, in person or by proxy, for each lot, tract, parcel or subdivision thereof, owned by him.

(Emphasis added.)

An old levee district may be reorganized by a county commission. See Sections 245.285 to 245.545. When such a levee district is reorganized, appointment is made pursuant to Section 245.335, which provides:

At the term of the county commission at which said levee district may be laid off, or at any subsequent term thereof, the said commission shall appoint three directors of levees, who shall be landholders within the county for the levee district of which the county is the whole or part thereof, one of which directors shall hold his said office for the term of one year, one for the term of two years, and one for the term of three years, and until their successors are duly appointed and qualified; and the said commission shall annually thereafter appoint one director to take the place of the director whose official term expires, possessing the same qualifications as the director first appointed, who shall hold his office for the term of three years.

When a meeting is called to select members of the board of supervisors of a levee district, the circuit clerk is specifically directed to contact "the authorized representative of any corporation which owns real estate or other property situate in said district." Section 245.060. No such language appears in the statutory framework for drainage districts. The legislature is presumed to know the provisions of one statute when enacting another one. *Bushell v. Schepp*, 613 S.W.2d 689 (Mo. App. 1981).

The issue presented is whether a representative of a corporation can serve as a member of the board of supervisors of either a drainage district or levee district. The

qualifications to serve on the board in a drainage district include ownership of real estate within the district, with at least two members residents of a county within the district. See Section 242.150. For levee districts, board members are "to be composed of owners of real estate in said district, which may include the authorized representative of any corporation which owns real estate or other property in said district." Section 245.060.

It appears from the statutory framework that the legislature has decided that a corporate representative may be elected to the board of supervisors of a levee district but not for a drainage district. Because there is a strong presumption that statutes are constitutional, we assume that this distinction between levee districts and drainage districts would withstand any challenge. *Cocktail Fortune, Inc. v. Supervisor of Liquor Control*, 994 S.W.2d 955 (Mo. 1999).

CONCLUSION

An authorized representative of a corporation that owns property within a levee district may be elected to the board of supervisors as provided in Section 245.060. There is no provision that an authorized representative of a corporation that owns property in a drainage district may be elected to the board of supervisors of a drainage district under Section 242.150.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON
Attorney General

LOTTERY COMMISSION:
PARDONS:

A pardon removes an impediment to a lottery license caused solely by the fact of the conviction for which the pardon was granted, but the conduct that led to the conviction for which the pardon was granted may be considered in assessing other factors used in making licensing decisions.

OPINION NO. 47-2002

May 15, 2002

Honorable Robert M. Clayton, III
State Representative, District 10
State Capitol Building
Jefferson City, MO 65101

Dear Representative Clayton:

We are in receipt of the following for an opinion from this office:

Does a gubernatorial pardon remove any impediment to receipt of a lottery license by a person who had been convicted of a felony?

While the pardon removes impediments caused by the *fact* of conviction, it does not remove any other impediments the applicant may have, including those that exist by reason of the *conduct* that led to the conviction.

The Director of the State Lottery is authorized to issue licenses for lottery game retailers pursuant to rules and regulations adopted by the Lottery Commission. Section 313.255, RSMo. The Director is statutorily barred from licensing any person as a lottery game retailer who has been convicted of a felony. Section 313.260, RSMo. There are additional statutory and regulatory factors that are considered in issuing a lottery license. You have inquired about an individual who was convicted of a felony--burglary and stealing--and received a pardon from Governor Roger B. Wilson on January 8, 2001. The question you posed is whether that pardon removes "any impediments" to the individual being issued a lottery game retailer license.

The effect of a gubernatorial pardon on a license disabling statute has been the subject of debate among courts in the United States. The Missouri Supreme Court addressed this issue in *Guastello v. Department of Liquor Control*, 536 S.W.2d 21 (Mo. banc 1976). In that case, a person who held a liquor license was denied a renewal based on a prior conviction for selling intoxicating liquor on a Sunday, even though the individual had received a gubernatorial pardon. The denial of the renewal was based solely on the conviction, and not on lack of good moral character. *Id.* at 22.

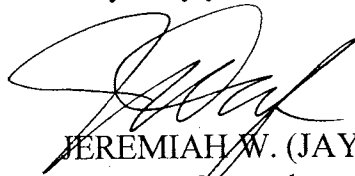
The Supreme Court held that the pardon obliterated the fact of conviction; and, therefore, the conviction could not be used to deny the renewal of the license. But the court specifically observed that when good character is a qualification for a license, the pardon does not restore character. The court specifically rejected the view that guilt is removed by a pardon.

The lottery law lists seven characteristics, other than a conviction, that make a person ineligible for a lottery license. Section 313.260.2, RSMo. The Lottery Commission has issued regulations that list factors to be considered in issuing a license. 12 CSR 4-40.020. The Lottery Commission must decide in the first instance whether or how the conduct that formed the basis of the conviction relates to any of these characteristics or factors. Other convictions that are not the subject of a pardon could be considered as well.

CONCLUSION

A pardon removes an impediment to a lottery license caused solely by the fact of the conviction for which the pardon was granted, but the conduct that led to the conviction for which the pardon was granted may be considered in assessing other factors used in making licensing decisions.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

CITY COUNCIL:
COUNTY AUDITOR:
INCOMPATIBILITY OF OFFICES:

A member of a city council may run for county auditor; however, an individual may not serve simultaneously as county auditor of a first class county and as a member of a city council within that county.

OPINION NO. 63-2002

January 23, 2002

Honorable Jason G. Crowell
State Representative, District 158
State Capitol Building
Jefferson City, MO 65101

Dear Representative Crowell:

We are in receipt of a request from you for an opinion from this office that asks two related questions. You ask whether a member of the city council of Cape Girardeau may run for county auditor and, if elected, hold both offices simultaneously.

We have found no statutory provisions, nor any case law that supports the proposition that a sitting city council member is ineligible to run for a county office. We note that the council member has responsibilities in that position that should be met while running for another office. We take no position regarding the city's charter and its ordinances because it is the long standing position of this office not to opine regarding ordinances or charter provisions of cities. Moreover, you have stated that there are no prohibitions in the charter or the ordinances preventing the council member from running for county auditor.

The issue whether an individual can serve simultaneously as county auditor and a member of a city council turns on whether the positions are incompatible with one another.

This office has stated that an individual may not serve in two offices simultaneously if the duties of the two offices are inconsistent, antagonistic, repugnant, or conflicting, as where, for example one office is subordinate to the other. Opinion No. 358-65. Our opinions have been based upon the doctrine of incompatibility as set forth by the courts of our state. For instance, the Supreme Court has held that:

At common law the only limit to the number of offices one person might hold was that they should be compatible and consistent. The incompatibility does not consist in a physical inability of one person to discharge the duties of the two offices, but there must be some inconsistency in the functions of the two, some conflict in the duties required of the officers, as where one has some supervision of the others, is required to deal with, control, or assist him.

State ex rel. Walker v. Bus, 135 Mo. 325, 36 S.W. 636, 639 (1896).

The Court has explained its position:

The respective functions and duties of the particular offices and their exercise with a view to the public interest furnish the basis of determination in each case. Cases have turned on the question whether such duties are inconsistent, antagonistic, repugnant or conflicting as where, for example, one office is subordinate or accountable to the other.

State ex rel. McGaughey v. Grayston, 349 Mo. 700, 163 S.W.2d 335, 339-40 (banc 1942).

The duties of a county auditor are set forth generally in Chapter 55, RSMo 2000. We find no incompatibility per se between the office of county auditor and a member of the city council. We have previously concluded that an individual can serve as a county and a municipal officer. In Opinion No. 121-88, a copy of which is attached, we concluded that there was no incompatibility between the offices of mayor and presiding commissioner. However, additional duties are also identified in Section 50.332, RSMo 2000, which could under certain circumstances create an incompatibility.

Each county officer in all counties except first class counties having a charter form of government may, subject to the approval of the governing body of the county, contract with the governing body of any municipality located within such county, either in whole or in part, to perform the same type of duties for such municipality as such county officer is performing for the county. Any compensation paid by a municipality for services rendered pursuant to this section shall be paid directly

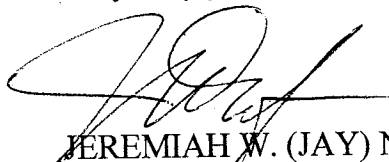
to the county, or county officer, or both, as provided in the provisions of the contract, and any compensation allowed any county officer under any such contract may be retained by such officer in addition to all other compensation provided by law.

Should the city of Cape Girardeau request services of the county auditor and the county commission approve such services to be so provided, there would be an incompatibility between the offices of county auditor and city council member. Because of the provisions cited above in Section 50.332, we believe that there is a potential for conflict between a council member who helps govern a city and the county auditor who can provide auditing services for the city.

CONCLUSION

A member of a city council may run for county auditor; however, an individual may not serve simultaneously as county auditor of a first class county and as a member of a city council within that county.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jeremiah W. Nixon', with a stylized flourish at the end.

JEREMIAH W. (JAY) NIXON
Attorney General

Attachment: Opinion No. 121-88

CENSUS:
PRISONERS:

Inmates of state correctional institutions should be included in the population count of the political subdivision in which the institution exists as determined at the last previous decennial census of the United States.

OPINION NO. 65-2002

May 15, 2002

Honorable W. W. (Bill) Gratz
Representative, District 113
State Capitol Building
Jefferson City, MO 65101

Dear Representative Gratz:

You have submitted a request for an opinion from this office which asks whether prisoners should be included in a city's population count when the prison is within the city limits and if the prisoners are excluded, how that could affect the amount of federal and state funding the city receives.¹

Section 1.100, RSMo 2000, provides, in pertinent part: "The population of any political subdivision of the state for the purpose of representation or other matters . . . is determined on the basis of the last previous decennial census of the United States." The answers to your questions, therefore, are determined by laws governing the counting of prisoners for purposes of the census of the United States. The answer to your first question is found in federal case law. In *Borough of Bethel Park v. Stans*, 449 F.2d 575 (3rd Cir. 1971), a challenge was raised to a number of actions of the Bureau of Census in its determination to include as inhabitants of states individuals in colleges, armed services, and inmates. The practice by the Census Bureau to include inhabitants where they generally eat, sleep, and work was based upon historical precedence dating to the First Decennial Census Act of 1790. The court concluded that inmates of penal institutions should be included as inhabitants of the state wherein the institution was located. The court stated:

¹We limit our response to whether to count prisoners for federal and state funding purposes, which is what your question addresses.

Persons confined to institutions where individuals usually stay for long periods of time, such as penitentiaries or correctional institutions, . . . are enumerated as residents of the state where they are confined. People in this category, . . . often have no other fixed place of abode, and the length of their institutional stay is often indefinite.

Stans at 582. Although this decision is from the Third Circuit and not necessarily binding in the Eighth Circuit, we have found no contrary decisions and find the analysis by the court compelling.

Because the answer to your first question is that prisoners are counted within the city limits for such purposes as federal and state funding the city receives, your second question does not require an answer.

CONCLUSION

Inmates of state correctional institutions should be included in the population count of the political subdivision in which the institution exists as determined at the last previous decennial census of the United States.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
(573) 751-3321

January 18, 2002

OPINION LETTER NO. 69-2002

The Honorable Claire C. McCaskill
Missouri State Auditor
224 State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

By letter dated January 9, 2002, you have submitted a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the proposed constitutional amendment passed by the General Assembly (House Joint Resolution No. 11). In that letter you state that you are withdrawing the fiscal note summary submitted on August 9, 2001, and issued on August 10, 2001. The fiscal note summary which you submitted is as follows:

The estimated fiscal impact of this proposed measure to state and local governments is \$0.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
(573) 751-3321

February 6, 2002

OPINION LETTER NO. 75-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Blunt:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to revise the Missouri statutes submitted by the Missouri Campaign for New Drug Policies. A copy of the initiative petition that you submitted to this office on January 28, 2002, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,

JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure



ATTORNEY GENERAL OF MISSOURI

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February 6, 2002

OPINION LETTER NO. 77-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Blunt:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri Constitution submitted by the Chuck Portwood. A copy of the initiative petition that you submitted to this office on January 31, 2002, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over the typed name and title.

JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure

GOVERNOR: Section 143.183, RSMo 2000, imposes an
INCOME TAX: affirmative obligation on the Commissioner of
OFFICE OF ADMINISTRATION: Administration to estimate the amount of state
income tax revenues collected which are received
from nonresident members of professional athletic teams and nonresident entertainers. The
allocation of those revenues to the various funds identified in that statute are subject to the
appropriation process. Section 143.183 imposes no duty on the Governor and does not
restrict the Governor's authority to prepare and submit a budget.

OPINION NO. 78-2002

May 13, 2002

Honorable Thomas A. Villa
Representative, District 108
State Capitol Building, Room 114B
Jefferson City, MO 65101

Dear Representative Villa:

You have submitted the following question to this office for response:

Inasmuch as Sec. 143.183 provides for the distribution of athletes' and entertainers' income tax payments to the entities enumerated in said section, subject to appropriation by the general assembly, and no other disposition is authorized, does the governor or any other executive department have the authority to refuse compliance with the requirements set forth in Sec. 143.183.

Section 143.183, RSMo 2000, directs the Commissioner of Administration to estimate annually the amount of state income tax revenues collected which are received from nonresident members of professional athletic teams and nonresident entertainers. It further directs that the estimate be allocated and transferred, subject to appropriation, among five state funds according to specified percentages. The statute does not purport to transfer money from the treasury or to direct any executive branch officer to do so. To do either would be contrary to Article III, Section 36 of the Missouri Constitution, which provides: "All revenue collected and money received by the state shall go into the treasury and the general assembly shall have no power to divert the same or to permit the withdrawal

of money from the treasury, except in pursuance of appropriations made by law." Section 143.183, therefore, properly subjects its directed transfers to the appropriation process. In so doing, the statute by its terms contemplates appropriations in any given year in amounts different from the percentages listed.

Your specific question is whether the Governor, or any executive department, has the authority to refuse compliance with the requirements of Section 143.183. Section 143.183 requires the Commissioner of Administration to prepare an estimate of the amount of state income tax revenues collected which are received from nonresident members of professional athletic teams and nonresident entertainers. It is the opinion of this office that the Commissioner does not have the authority to refuse to make this estimate.

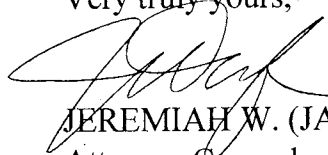
The duties set forth in Section 143.183 are, however, distinct from the Governor's duty to prepare and submit a budget to the General Assembly. *See generally*, Section 33.270, RSMo 2000. Pursuant to Chapter 33, RSMo 2000, the Governor is free to make budget recommendations to fund in full, in part, or not at all the activities of the various departments of state government. It is then the duty of the General Assembly to enact appropriations by law within the limitations imposed upon it by the Constitution.

Section 143.183 imposes no duty on the Governor. Whether the Governor's budget recommends that no money be transferred to the various funds described in Section 143.183 is, therefore, irrelevant to the question. The General Assembly remains free to appropriate moneys earmarked in the statute to the five funds.

CONCLUSION

Section 143.183, RSMo 2000, imposes an affirmative obligation on the Commissioner of Administration to estimate the amount of state income tax revenues collected which are received from nonresident members of professional athletic teams and nonresident entertainers. The allocation of those revenues to the various funds identified in that statute are subject to the appropriation process. Section 143.183 imposes no duty on the Governor and does not restrict the Governor's authority to prepare and submit a budget.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
(573) 751-3321

March 1, 2002

OPINION LETTER NO. 82-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Blunt:

On February 19, 2002, you submitted to us a summary statement for the petition submitted by Chuck Portwood relating to a proposed amendment to the Missouri Constitution. The summary statement, prepared pursuant to Section 116.334, RSMo 2000, is as follows:

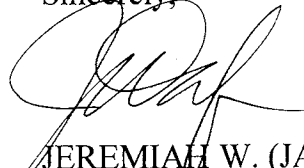
Shall the Missouri Constitution be amended so that the assessed value of residential property, excluding new construction or improvements, shall not increase during any two-year reassessment period more than the consumer price index or five percent, whichever is less, except that the assessed value of residential property owned by any person age sixty-five or older who has used such property as a homestead for five years or more shall not increase while that person resides on that property, and all revenue losses by any political subdivision as a result of these limitations shall be reimbursed by the state of Missouri?

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Since our review of the statement is mandated by statute, no action we take with

Honorable Matt Blunt
Page 2

respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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March 1, 2002

OPINION LETTER NO. 83-2002

The Honorable Claire C. McCaskill
Missouri State Auditor
224 State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

By letter dated February 19, 2002, you have submitted a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition for a proposed constitutional amendment from the Missouri Campaign for New Drug Policies relating to drug and tobacco addiction and treatment policies. The fiscal note summary which you submitted is as follows:

A tax (excluded from Missouri Constitution Article X) of 20 mills per cigarette sold would generate revenues of approximately \$234 million annually. The estimated net direct fiscal impact to state government is a net savings of \$7,847,000 to \$13,359,000 annually. The indirect fiscal impact on state and local governments, if any, is unknown.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
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March 1, 2002

OPINION LETTER NO. 85-2002

The Honorable Claire C. McCaskill
Missouri State Auditor
224 State Capitol Building
Jefferson City, MO 65101

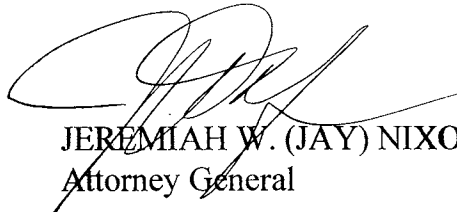
Dear Auditor McCaskill:

By letter dated February 20, 2002, you have submitted a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition proposal relating to the Homestead Preservation Act. The fiscal note summary which you submitted is as follows:

The fiscal impact of this proposal to state and local governments is zero, as the tax burden will be shifted from those who qualify to not have their assessed valuations increased under the homestead exemption to all other taxpayers.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
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March 6, 2002

OPINION LETTER NO. 88-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

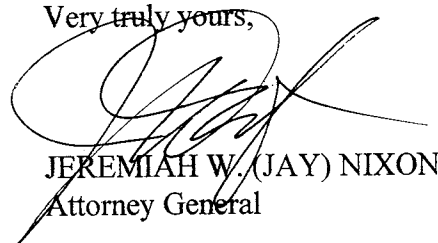
Dear Secretary Blunt:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend Article IV of the Missouri Constitution submitted by the Husch & Eppenger, LLC. A copy of the initiative petition that you submitted to this office on February 25, 2002, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

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ATTORNEY GENERAL

P. O. Box 899
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March 6, 2002

OPINION LETTER NO. 89-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Blunt:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend Article IV of the Missouri Constitution submitted by the Husch & Eppenberger, LLC. A copy of the initiative petition that you submitted to this office on February 25, 2002, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,

JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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JEREMIAH W. (JAY) NIXON
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March 14, 2002

OPINION LETTER NO. 91-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Blunt:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri statutes relating to tobacco taxes submitted by Husch & Eppenger, LLC (version 1). A copy of the initiative petition that you submitted to this office on March 4, 2002, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Attachment

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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March 14, 2002

OPINION LETTER NO. 92-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

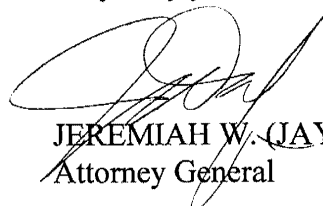
Dear Secretary Blunt:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri statutes relating to tobacco taxes submitted by Husch & Eppenberger, LLC (version 2). A copy of the initiative petition that you submitted to this office on March 4, 2002, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Attachment

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

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March 14, 2002

OPINION LETTER NO. 93-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

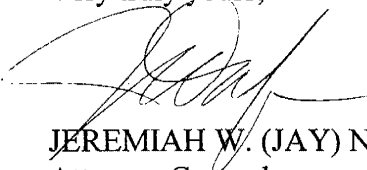
Dear Secretary Blunt:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri statutes relating to tobacco taxes submitted by Husch & Eppenberger, LLC (version 3). A copy of the initiative petition that you submitted to this office on March 4, 2002, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Attachment

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

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March 14, 2002

OPINION LETTER NO. 94-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

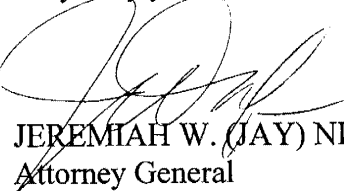
Dear Secretary Blunt:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri statutes relating to tobacco taxes submitted by Husch & Eppenger, LLC (version 4). A copy of the initiative petition that you submitted to this office on March 4, 2002, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Attachment



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

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March 14, 2002

OPINION LETTER NO. 95-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Blunt:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri statutes relating to tobacco taxes submitted by Husch & Eppenberger, LLC (version 5). A copy of the initiative petition that you submitted to this office on March 4, 2002, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,

JEREMIAH W. (JAY) NIXON
Attorney General

Attachment

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

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March 14, 2002

OPINION LETTER NO. 96-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

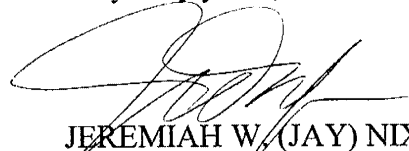
Dear Secretary Blunt:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri statutes relating to tobacco taxes submitted by Husch & Eppenberger, LLC (version 6). A copy of the initiative petition that you submitted to this office on March 4, 2002, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Attachment

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
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March 14, 2002

OPINION LETTER NO. 97-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Blunt:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri statutes relating to tobacco taxes submitted by Husch & Eppenberger, LLC (version 7). A copy of the initiative petition that you submitted to this office on March 4, 2002, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Attachment

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
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March 14, 2002

OPINION LETTER NO. 98-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101


Dear Secretary Blunt:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend the Missouri statutes relating to tobacco taxes submitted by Husch & Eppenberger, LLC (version 8). A copy of the initiative petition that you submitted to this office on March 4, 2002, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Attachment

ATTORNEY GENERAL OF MISSOURI

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P. O. Box 899
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March 14, 2002

OPINION LETTER NO. 99-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Blunt:

On March 4, 2002, you submitted to us a summary statement for the petition submitted by the Missouri Campaign for New Drug Policies. The summary statement, prepared pursuant to Section 116.334, RSMo 2000, is as follows:

Shall the Revised Statutes of Missouri be amended to create substance abuse treatment and rehabilitation programs for non-violent offenders charged with illegal possession of controlled substances, and if such offenders are found by the courts to be eligible for such programs, upon successful completion of such programs, the courts shall dismiss criminal charges or convictions against the offenders, and also create tobacco prevention and stop-smoking programs and health care programs, such programs to be funded by an additional tax on the sale of cigarettes of forty cents per package?

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
(573) 751-3321

March 15, 2002

OPINION LETTER NO. 100-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Blunt:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposal to amend Article IV of the Missouri Constitution submitted by the Husch & Eppenberger, LLC (version 3A). A copy of the initiative petition that you submitted to this office on March 8, 2002, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,

JEREMIAH W. (JAY) NIXON
Attorney General

Attachment

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
(573) 751-3321

March 20, 2002

OPINION LETTER NO. 102-2002

The Honorable Claire C. McCaskill
Missouri State Auditor
224 State Capitol Building
Jefferson City, MO 65101

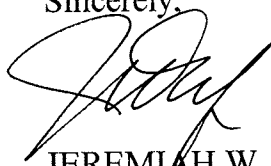
Dear Auditor McCaskill:

By letter dated March 14, 2002, you have submitted a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to tobacco taxes (version 1) The fiscal note summary which you submitted is as follows:

An additional tax of two and one-half cents per cigarette and an additional tax of twenty percent of the manufacturer's invoice price for tobacco products other than cigarettes would generate net annual state revenues of approximately \$312,843,000; local fiscal impact, if any, is unknown.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
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March 20, 2002

OPINION LETTER NO. 103-2002

The Honorable Claire C. McCaskill
Missouri State Auditor
224 State Capitol Building
Jefferson City, MO 65101

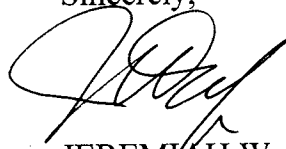
Dear Auditor McCaskill:

By letter dated March 14, 2002, you have submitted a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to tobacco taxes (version 2) The fiscal note summary which you submitted is as follows:

An additional tax of two and three-quarters cents per cigarette and an additional tax of twenty percent of the manufacturer's invoice price for tobacco products other than cigarettes would generate net annual state revenues of approximately \$342,636,000; local fiscal impact, if any, is unknown.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
(573) 751-3321

March 20, 2002

OPINION LETTER NO. 104-2002

The Honorable Claire C. McCaskill
Missouri State Auditor
224 State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

By letter dated March 14, 2002, you have submitted a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to tobacco taxes (version 3) The fiscal note summary which you submitted is as follows:

An additional tax of two and one-half cents per cigarette would generate net annual state revenues of approximately \$295,554,000; local fiscal impact, if any, is unknown.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
(573) 751-8321

March 20, 2002

OPINION LETTER NO. 105-2002

The Honorable Claire C. McCaskill
Missouri State Auditor
224 State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

By letter dated March 14, 2002, you have submitted a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to tobacco taxes (version 4) The fiscal note summary which you submitted is as follows:

An additional tax of two and three-quarters cents per cigarette would generate net annual state revenues of approximately \$325,181,000; local fiscal impact, if any, is unknown.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
(573) 751-3321

March 20, 2002

OPINION LETTER NO. 106-2002

The Honorable Claire C. McCaskill
Missouri State Auditor
224 State Capitol Building
Jefferson City, MO 65101

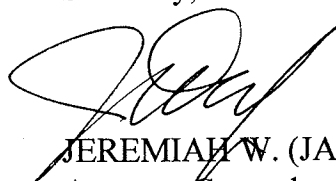
Dear Auditor McCaskill:

By letter dated March 14, 2002, you have submitted a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to tobacco taxes (version 5) The fiscal note summary which you submitted is as follows:

An additional tax of two and one-half cents per cigarette and an additional tax of twenty percent of the manufacturer's invoice price for tobacco products other than cigarettes would generate annual state revenues of approximately \$314,004,000; local fiscal impact, if any, is unknown.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
(573) 751-3321

March 20, 2002

OPINION LETTER NO. 107-2002

The Honorable Claire C. McCaskill
Missouri State Auditor
224 State Capitol Building
Jefferson City, MO 65101

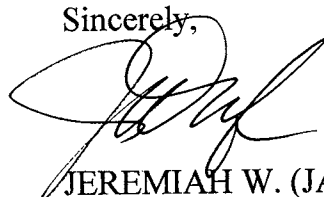
Dear Auditor McCaskill:

By letter dated March 14, 2002, you have submitted a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to tobacco taxes (version 6). The fiscal note summary which you submitted is as follows:

An additional tax of two and three-quarters cents per cigarette and an additional tax of twenty percent of the manufacturer's invoice price for tobacco products other than cigarettes would generate annual state revenues of approximately \$343,654,000; local fiscal impact, if any, is unknown.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
(573) 751-3321

March 20, 2002

OPINION LETTER NO. 108-2002

The Honorable Claire C. McCaskill
Missouri State Auditor
224 State Capitol Building
Jefferson City, MO 65101

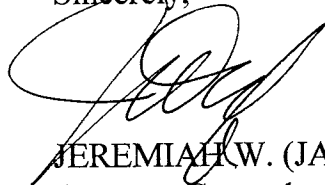
Dear Auditor McCaskill:

By letter dated March 14, 2002, you have submitted a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to tobacco taxes (version 7) The fiscal note summary which you submitted is as follows:

An additional tax of two and one-half cents per cigarette would generate net annual state revenues of approximately \$296,500,000; local fiscal impact, if any, is unknown.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

March 20, 2002

OPINION LETTER NO. 109-2002

The Honorable Claire C. McCaskill
Missouri State Auditor
224 State Capitol Building
Jefferson City, MO 65101

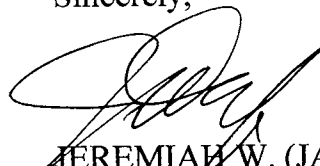
Dear Auditor McCaskill:

By letter dated March 14, 2002, you have submitted a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to tobacco taxes (version 8). The fiscal note summary which you submitted is as follows:

An additional tax of two and three-quarters cents per cigarette would generate annual state revenues of approximately \$326,150,000; local fiscal impact, if any, is unknown.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY
65102

P. O. Box 899
(573) 751-3321

April 4, 2002

OPINION LETTER NO. 115-2002

The Honorable Claire C. McCaskill
Missouri State Auditor
224 State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

By letter dated March 22, 2002, you have submitted a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to Motor-Fuel Transportation Fund taxes (version 1). The fiscal note summary which you submitted is as follows:

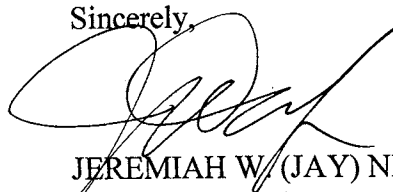
An additional \$.05 to \$.11 per gallon motor fuel tax and a 5/8 of 1% sales/use tax on tangible personal property for highway and transportation purposes, generates total annual tax revenues of approximately:

	Through 2008	2009-2012
State	\$584,152,000	\$761,407,000
Local	\$ 48,348,000	\$105,093,000

and state costs of approximately \$18,975,000 to \$25,995,000.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY
65102

P. O. Box 899
(573) 751-3321

April 4, 2002

OPINION LETTER NO. 116-2002

The Honorable Claire C. McCaskill
Missouri State Auditor
224 State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

By letter dated March 22, 2002, you have submitted a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to Motor-Fuel Transportation Fund taxes (version 2). The fiscal note summary which you submitted is as follows:

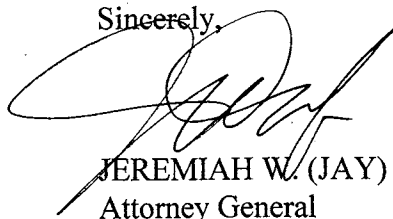
An additional \$.03 to \$.11 per gallon motor fuel tax and a 3/4 of 1% sales/use tax on tangible personal property for highway and transportation purposes, generates total annual tax revenues of approximately:

	Through 2008	2009-2012
State	\$612,354,000	\$789,609,000.
Local	\$ 29,646,000	\$ 86,391,000

and state costs of approximately \$19,260,000 to \$26,280,000.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY
65102

P. O. Box 899
(573) 751-3321

April 4, 2002

OPINION LETTER NO. 117-2002

The Honorable Claire C. McCaskill
Missouri State Auditor
224 State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

By letter dated March 22, 2002, you have submitted a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition related to Motor-Fuel Transportation Fund taxes (version 3a). The fiscal note summary which you submitted is as follows:

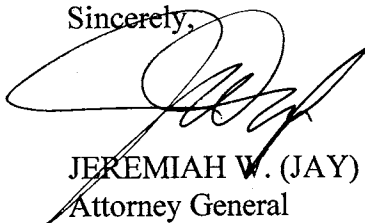
An additional \$.06 per gallon motor fuel tax and a 1% sales/use tax on tangible personal property for highway and transportation purposes, generates total annual tax revenues of approximately:

	Through 2008	2009-2012
State	\$698,303,000	\$875,558,000.
Local	\$ 1,697,000	\$ 58,442,000

and state costs of approximately \$21,000,000 to \$28,020,000.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
(573) 751-3321

March 28, 2002

OPINION LETTER NO. 119-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Blunt:

On March 26, 2002, you submitted to us a summary statement for the petition submitted by Alex Bartlett of Husch & Eppenger, L.L.C. relating to the tobacco tax initiative petition (version 2). The summary statement, prepared pursuant to Section 116.334, RSMo 2000, is as follows:

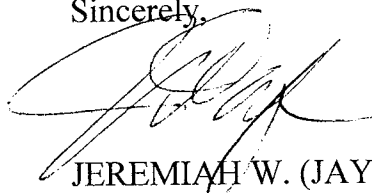
Shall Missouri law be amended to impose an additional tax of 2.75 cents per cigarette (fifty-five cents per pack) and 20 percent on other tobacco products, with the new revenues placed into a Healthy Families Trust Fund to be used for the following purposes: hospital trauma care and emergency preparedness; health care treatment and access, including prescription drug assistance for seniors and health care initiatives for low income citizens, women, minorities and children; life sciences research, including medical research and the proper administration of funds for such research; smoking prevention; and grants for early childhood care and education?

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Since our review of the statement is mandated by statute, no action we take with

Honorable Matt Blunt
Page 2

respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Nixon", with a large, stylized flourish extending from the end of the signature.

JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

April 8, 2002

OPINION LETTER NO. 126-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

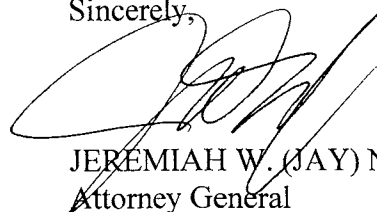
Dear Secretary Blunt:

On March 28, 2002, you submitted to us a summary statement for the initiative petition submitted by Husch & Eppenberger relating to the transportation (version 1). The summary statement, prepared pursuant to Section 116.334, RSMo 2000, is as follows:

Shall the Missouri Constitution be amended to impose an additional motor fuel tax of five cents per gallon and additional sales and use taxes of five-eighths of one percent, with the new revenues to be used for highway and transportation purposes, such as improving the conditions of state and local highways, bridges and public transportation, and providing funding for the highway patrol, such additional taxes to be in effect for ten years, to be extended only by a vote of the people?

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

April 8, 2002

OPINION LETTER NO. 127-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Blunt:

On March 28, 2002, you submitted to us a summary statement for the initiative petition submitted by Husch & Eppenberger relating to the transportation (version 2). The summary statement, prepared pursuant to Section 116.334, RSMo 2000, is as follows:

Shall the Missouri Constitution be amended to impose an additional motor fuel tax of three cents per gallon and additional sales and use taxes of three-quarters of one percent, with the new revenues to be used for highway and transportation purposes, such as improving the conditions of state and local highways, bridges and public transportation, and providing funding for the highway patrol, such additional taxes to be in effect for ten years, to be extended only by a vote of the people?

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

April 8, 2002

OPINION LETTER NO. 128-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

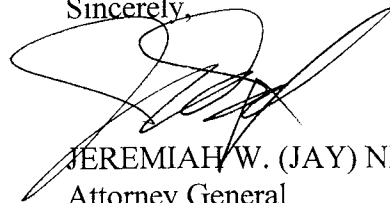
Dear Secretary Blunt:

On March 28, 2002, you submitted to us a summary statement for the initiative petition submitted by Husch & Eppenger relating to the transportation (version 3a). The summary statement, prepared pursuant to Section 116.334, RSMo 2000, is as follows:

Shall the Missouri Constitution be amended to impose an additional sales and use taxes of one percent, with the new revenues to be used for highway and transportation purposes, such as improving the conditions of state and local highways, bridges and public transportation, and providing funding for the highway patrol, such additional taxes to be in effect for ten years, to be extended only by a vote of the people?

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY

65102

May 28, 2002

P.O. Box 899
(573) 751-3321

OPINION LETTER NO. 140-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Blunt:

On May 28, 2002, you submitted to us a summary statement for the referendum to be held on Senate Bill Nos. 915, 710, and 907. The summary statement, prepared pursuant to Section 116.160, RSMo, is as follows:

Shall Missouri statutes be amended to impose additional sales and use taxes of one-half cent on the dollar and an additional motor fuel tax of four cents per gallon, for highway and transportation purposes until July, 2013, unless extended by a vote of the people, and establish an inspector general within the department of transportation?

Pursuant to Section 116.160, we approve the legal content and form of the proposed statement. Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the referendum or as the expression of any view regarding the objectives of its proponents.

Sincerely,

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

May 28, 2002

OPINION LETTER NO. 141-2002

The Honorable Claire C. McCaskill
Missouri State Auditor
224 State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

By letter dated May 28, 2002, you submitted a fiscal note and fiscal note summary prepared pursuant to Section 116.170, RSMo, concerning the referendum to be held on Senate Bill Nos. 915, 710, and 907. The fiscal note summary which you submitted is as follows:

An additional one-half cent sales/use tax on tangible personal property and four cent per gallon motor fuel tax for highways, roads, bridges and public transportation generate total annual tax revenues of approximately:

State	\$431,000,000
Local	\$ 52,000,000.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the referendum or as the expression of any view regarding the objectives of its proponents.

Sincerely,

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

June 26, 2002

OPINION LETTER NO. 146-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Blunt:

On June 17, 2002, you submitted to us a proposed summary statement for Senate Joint Resolution 24 submitted by the Missouri General Assembly relating to term limits. The summary statement, prepared pursuant to Section 116.160, RSMo 2000, is as follows:

Shall Article III, Section 8 of the Missouri Constitution be amended to exclude, from the calculations of term limits for members of the General Assembly, service of less than one-half of a legislative term resulting from a special election held after December 5, 2002?

Pursuant to Section 116.160, we approve the legal content and form of the proposed statement. Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the Senate Joint Resolution or as the expression of any view regarding the objectives of its proponents.

Sincerely,

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

June 26, 2002

OPINION LETTER NO. 147-2002

The Honorable Claire C. McCaskill
Missouri State Auditor
224 State Capitol Building
Jefferson City, MO 65101

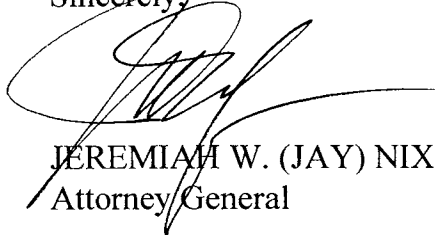
Dear Auditor McCaskill:

By letter dated June 20, 2002, you have submitted a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the proposed constitutional amendment passed by the General Assembly (Senate Joint Resolution No. 24). The fiscal note summary which you submitted is as follows:

The estimated fiscal impact of this proposed measure to state and local governments is \$0.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the proposed constitutional amendment or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

December 5, 2002

OPINION LETTER NO. 164-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

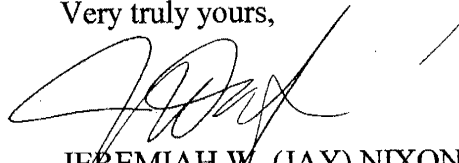
Dear Secretary Blunt:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to amending Chapter 640, RSMo, by adding one new section to be known as Section 640.887, the Consumer Clean Energy Act. A copy of the initiative petition that you submitted to this office on November 25, 2002, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such a person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable _____, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 2nd day of November, 2004 and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type name of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					

Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

Signature of Affiant _____ Address of Affiant _____
(Person obtaining signatures)

Subscribed and sworn to before me this _____ day of _____ A.D. _____

Notary Public (Seal)
My commission expires _____

Signature of Notary

Address of Notary

PROPOSED MEASURE

BE IT ENACTED BY THE PEOPLE OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Chapter 640, RSMo, is amended by adding thereto one new section to be know as section 640.887, to read as follows:

640.887 1. This section shall be known and may be cited as the "Consumer Clean Energy Act."

2. Any customer of the public utility as the term 'public utility' is defined in 386.020 (42) RSMo, may generate electricity, introduce excess electricity to the public utility's electrical distribution network, and receive the benefits of Net Metering from the public utility if the following conditions are met:

- A. The customer generates electricity from a hydrogen fuel cell, from solar cells, from wind power generators, or from biomass generating or any combination of the foregoing methods of generating electricity.
- B. The maximum capacity of the customer's generating system is less than 100 kilowatts.
- C. The customer's generating systems are located on property owned, leased or otherwise controlled by the customer.
- D. The customer's electrical generating systems and their connection to the public utility's system meet the requirements and applicable standards of the Institute of Electrical and Electronics Engineers, Underwriters Laboratory, and those reasonable requirements established by the Missouri Public Service Commission.

3. Net Metering shall mean that the public utility shall, for each customer with an electrical generation system which satisfies the requirements of subsection 2 of this section and who has informed the public utility of his electrical generation system:

- A. make available, at the public utilities expenses, a net metering unit or units, which measure the electricity provided the customer and the electricity which the customer has provided the utility;
- B. bill the customer for the amount of electricity used by the customer in each regular billing cycle and give the customer credit for the electricity provided by the customer at the same rate the customer is paying the public utility;
- C. make any payments due the customer within 35 days, at the end of the regular billing period.
- D. The public utility shall not require any customer with an electrical generating system, satisfying the requirements of subsection 2 of this section, to install additional controls, pay any fees, or conduct any tests.
- E. The public utility shall, within 30 days of an application by a customer with an electrical generating system, in conformity with the requirements of subsection 2, give written permission for the customer to interconnect with the public utility's electrical generation and distribution system and shall satisfy the requirement of this section.

4. The Missouri Public Service Commission, with the necessary approval of the Missouri Department of Natural Resources, may promulgate regulations in accordance with the provisions of this section.

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

December 19, 2002

OPINION LETTER NO. 169-2002

The Honorable Claire C. McCaskill
Missouri State Auditor
224 State Capitol Building
Jefferson City, MO 65101

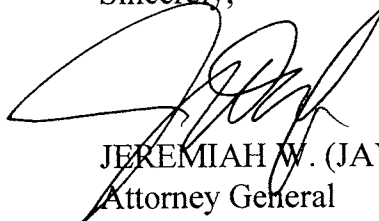
Dear Auditor McCaskill:

By letter dated December 16, 2002, you have submitted a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning the initiative petition proposal to revise Chapter 640 by adding one new section, Section 640.887. The fiscal note summary which you submitted is as follows:

There appears to be no direct fiscal impact on state and local governments. The indirect fiscal impact on state and local governments, if any, is unknown.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

December 20, 2002

OPINION LETTER NO. 170-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

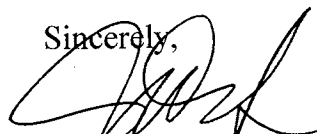
Dear Secretary Blunt:

On December 18, 2002, you submitted to us a summary statement for the petition submitted by Larry Rice relating to the proposed Consumer Clean Energy Act. The summary statement, prepared pursuant to Section 116.334, RSMo 2000, is as follows:

Shall Missouri statutes be amended so that a customer of a public utility may generate electricity from hydrogen fuel cells, solar cells, wind power generators, biomass generating, or any combination of the same, and sell excess electricity back to the public utility at the same rate the customer is paying the public utility for electricity?

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General